

NORWAY

The benefits still outweigh the drawbacks of Norway's unique relationship with the European Union, writes Jarle Hetland

Statoil, Norway's largely state-owned oil and gas company, has an advertising campaign that declares: "Europe, powered by Norwegian gas". The main findings of a report on Norway's relationship with the European Union, published last week (17 January), suggest that "Norway, powered by European legislation" would be an apt rejoinder.

Two years ago, Jonas Gahr Støre, Norway's foreign minister, commissioned an 11-strong committee to review the country's dealings with the EU over the past 20 years. The result, "Outside and inside: Norway's agreements with the European Union", is a weighty 911-page tome. It claims that, despite not being an actual member of the EU, Norway is the equivalent of a "three-quarter" member, and has undergone as extensive a "Europeanisation" as any EU member state.

The European Economic Area (EEA) agreement defines Norway's dealings with the EU. The deal was conceived in 1988 by Jacques Delors when he was president of the European Commission, as a way of giving the members of the European Free Trade Association access to the European single market. The EEA pact between six of the countries then in EFTA (Austria, Finland, Iceland, Liechtenstein, Norway and Sweden) and the then 12 EU countries came into effect in 1992. The remaining EFTA country, Switzerland, rejected the deal and has since been dealing with the EU through bilateral agreements (see opposite page).

The EEA agreement obliges Norway to adopt all EU law governing the internal market. It was set up to be both 'dynamic and homogeneous': to automatically integrate single market laws. Norway can, in theory, refuse to adopt EU legislation, but this has never happened – it could trigger the end of the deal. When the EEA agreement was signed, it contained 1,849 legal acts; by the beginning of 2011, there were 4,502 active legal acts – including 1,369 directives and 1,349 regulations.

The authors of "Outside and inside" calculate that EU legislation accounts for one third of Norway's laws – roughly the same as for a fully-fledged member of the EU. But this is legislation that Norway had no say in forming, shaping or deciding, and only a handful of laws have been debated in the country's parliament. In the 1990s, perhaps all that was needed for legislation to be implemented was a fax received in Oslo. These days, as Dag Sejersted – one of the report's authors – points out, all the Norwegian government has to do is press the download button.

Norway has also asked and been allowed to join EU projects outside the EEA agreement, such as Schengen, justice and home affairs co-operation, and foreign and security policy. Through the EEA and bilateral agreements, it participates in 19 framework programmes and 26 agencies (see box). According to the report, the two sides have signed 74 bilateral agreements since 1992 over and above the EEA agreement.

It is always Norway that asks to participate in EU agencies and programmes. It has greater scope for influencing decisions within Schengen

On the outside, looking in



NORWAY'S ECONOMIC CONTRIBUTION TO THE EU

From time to time, Norway has been accused of hitching a 'free ride' with the EU: reaping the benefits of the single market without joining the club. While its financial contribution to the EU during the first five years of the EEA agreement was low (around Nkr200 million annually, or €25m), Norway is today among the net contributors (though not to the EU budget); its net annual contribution is around €350m, or €72 per person. This is lower than most of the other net contributors to the EU budget, including the Netherlands and Sweden, but Norway is not involved in all policy areas.

Most of the money – at least for the first three five-year periods – was funnelled through EEA and Norway grants to projects in the EU's newest member states, as well as Greece, Portugal and Spain. It should be noted that the EEA agreement does not formally stipulate a fee for access to the single market, but a Norwegian refusal to pay (which is unlikely) would probably lead to the EU cancelling the deal. Poland is the biggest beneficiary of Norwegian funding, receiving around €1 billion in 2009-14.

Norway also contributes to the EU through its participation in agencies and programmes, but these sums are small compared to EEA/Norway grants.

because it attends Council working groups (up to Coreper II level), but it is still excluded from actual decision-making. There are only four policy areas in which Norway takes no part: agriculture, fisheries, customs union and monetary union. (Some Norwegians would argue there is a fifth: democracy.)

Important trading partner

As "Outside and inside" points out, the EEA agreement and the bilateral deals combined have – along with its energy industry – been the driving force in boosting Norway's finances, for example by making it easier for Norwegian companies to do business across Europe: 75% of Norway's trade is with EU countries.

In its period of EU involvement, Norway has seen its unemployment rate drop and the creation of a substantial number of new jobs. Moreover, the report suggests that Norway's judiciary has improved as a direct result of the agreements with the EU, leading in turn to improvements in citizens' rights. In short, Norway's relationship with the EU has been

highly beneficial for its society and citizens.

In opinion polls carried out for the report, 65% of Norwegians said they were highly supportive of EU-led initiatives, be they on consumer rights or the free movement of workers – often to a greater degree than in EU member states. By contrast, an opinion poll released on Monday (23 January) showed a mere 15.3% in favour of Norway joining the EU. Politicians and officials, too, are generally happy with the current relationship. They also regard the trade-off – access to the internal market without decision-making powers – as a good bargain for business and citizens.

Structural problems

But despite the economic benefits the deal poses, one problem will not go away. Judicially, the 1992 EEA agreement rests on a solid democratic foundation, according to the country's constitution, but the "Outside and inside" report warns of growing structural problems. Since the EEA agreement came into force, the EU has implemented four new treaties and has ex-

WORKING TOGETHER

A glance at some of Norway's agreements with the EU:

- EEA agreement (1992)
- Schengen agreement
- Dublin I and II (2001, 2003)
- Eurojust (2005)
- European arrest warrant (2006)
- Cepol (2006)
- Lugano convention (2007)
- Treaty of Prüm (2009)

Other areas in which Norway participates:

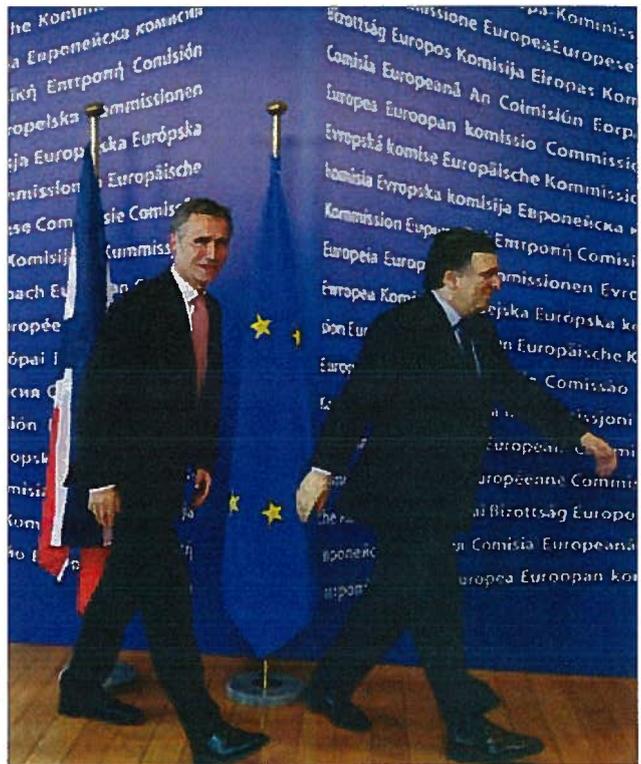
- Galileo (2001)
- Civilian and military crisis management (2004)
- EU military response forces/Nordic Battle Group (2005)
- European Defence Agency (2006)

panded to 27 countries. Each expansion brings new laws and new obligations for Norway too. The report stresses that Norway is the equivalent of 75% a member of the Union, only slightly less than the UK or Denmark, two member states that declined to join the monetary union and have been granted opt-outs in several policy areas.

For the time being, the view – both in Norway and the EU – is that the current relationship should continue in its present form. But the report depicts the situation as fragile and far from perfect, and with frictions likely to arise on both sides.

The report tentatively suggests that bringing all the agreements within a single framework could help defuse these problems, as such a move could make more transparent (for its citizens) the extent of Norway's EU involvement. As for the democratic deficit question, the report raises the

Stuck in the back seat



WALK THIS WAY Jens Stoltenberg, Norway's prime minister, and José Manuel Barroso, the European Commission president, in Brussels. EC

Norway may be closely tied to the EU, but that does not mean that it reaps as many benefits as some people imagine, writes **Sebastian Remøy**

Norway's special arrangements with the EU, enabling among other things access to the internal market, have spared it being drawn deeply into parts of the European project that are in crisis or are less than popular – such as the single currency and the Common Fisheries Policy. Eurosceptics everywhere might devour the contents of “Outside and inside” to see how they could get a similar deal for their country.

Why, then, should Norway have any concerns over the relationship? Why should it not just keep on cherry-picking? Foreign Minister Jonas Gahr Støre summed it up at the launch of the report last week. Incorporating three-quarters of the EU's laws and policies does not mean that Norway is three-quarters an EU member state, he said. The country does not have three-quarters of a commissioner in the college, nor eight out of the 12 or so MEPs it would be entitled to if it were a full member. Neither does it have three-quarters of a seat in the Council. Norway is practically condemned to comply without any compensating voting rights, and with only limited and diminishing influence in Brussels. This predicament is all the more distressing when it concerns laws that Norway may not like but is constrained to accept anyway.

The report usefully provides a full analysis of this remarkable relationship, with its numerous agreements with the European Union. It pieces together an intricate jigsaw puzzle that provides a picture never before so clearly perceived. The process of mapping the more than 70 agreements that bind Norway to the EU has been “a journey of discovery” for the experts who produced the

study. They admit to being surprised by how extensively Norway's relationship to the EU has developed.

Lack of leadership

On the plus side, Norwegian representatives often make skilful and pragmatic use of opportunities to shape decisions via their non-voting access to EU committees and agencies. But what is at stake is not just Norway's ability to influence the EU's policy proposals. A serious limitation is Norway's inability to lead developments, particularly in areas of vital national interest. In forfeiting a right to assume the presidency of the Council of Ministers, or to appoint a commissioner, or to elect representatives to the European Parliament, Norway has accepted the role of back-seat passenger with no intention of taking a turn at the wheel. Eventually, with more member states climbing aboard, it may not even be the back seat where Norway sits, but in a trailer hitched behind.

An important virtue of the report is that it permits an assessment, for the first time, of the total impact of Norway's EU-originated laws and commitments on the one side, against its choice to forfeit real access to the democratic institutions that generate them on the other. And the most troublesome finding of the study is that very few people in Norway understand the extent of the country's integration with the EU. An informed national debate about Norway's future in Europe can take place only if this changes.

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THE SWISS POSITION

Switzerland faces many of the same challenges as Norway in its relations with the European Union, and – like Norway – it is rethinking its approach.

Unlike Norway, Switzerland is not a member of the European Economic Area (EEA); its voters rejected membership in a divisive referendum in 1992. Since then, any suggestion that the country might be better off if its relations with the EU were put on a solid institutional footing has been political poison. Instead, Switzerland has negotiated a number of bilateral agreements that, taken together, give it practically unhindered access to the EU's internal market.

But in recent years, the EU has become increasingly vocal about the need for precisely the sort of institutional framework that the Swiss have traditionally rejected. The EU wants independent, supranational institutions to scrutinise the interpretation and implementation of the bilateral agreements. “No foreign judges” is one of the most emotive political slogans in Switzerland – but that is precisely what the EU is in effect demanding.

Another burning issue is the adaptation of bilateral agreements to new EU legislation. The EU wants automatic implementation, while Switzerland insists on something it calls “autonomous” implementation, which gives the government the right to reject new laws – in theory.

The EU's increasing insistence on these demands has forced the Swiss government to reassess its options. It has commissioned independent assessments of legal and political scenarios, and one option that has emerged is to use the existing institutions created for the EEA



and for the European Free Trade Association (EFTA), of which Switzerland is a member.

Another option is the launch of some kind of special judicial body on the Swiss side. But both have the drawback of requiring legal acts, which might have to be put to a referendum. In the current climate, the outcome would be in doubt.

It is now up to Didier Burkhalter, Switzerland's foreign minister since last month, to find a way through the political minefield. A bilateral agreement on energy could serve as a model, in the Swiss analysis. It is one of the areas in which Switzerland appears willing to accept the automatic implementation of new EU law and might agree to the creation of a judicial mechanism. Whether the EU will agree to the piecemeal creation of such mechanisms is unclear.

Toby Vogel

possibility of strengthening Norwegian parliamentary oversight over EU matters.

There have been many attempts to define Norway's relationship with the EU – and few have been flattering: ‘fax-democracy’, Brussels's ‘richest lobbyist’, and ‘naive’ are some

examples. Such descriptions are, moreover, far from inaccurate. Unless events alter the status quo (such as Iceland joining the EU), for the foreseeable future Norway's gas will continue to power Europe, but the EU will continue to drive Norwegian legislation.